

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 234.6 and 2011 Iowa Acts, House File 649, sections 11(2), 11(3), 28(11), and 29(1), the Department of Human Services amends Chapter 51, “Eligibility,” and Chapter 52, “Payment,” Iowa Administrative Code.

These amendments implement the annual adjustments to eligibility and payment levels in the State Supplementary Assistance Program that are necessary to meet the federal maintenance-of-effort or “pass-along” requirements specified in Title XVI of the Social Security Act and in federal regulations at 20 CFR 416.2095 and 416.2096. Compliance with maintenance-of-effort requirements for state supplements is a condition of eligibility for state participation in the federal Medicaid program.

Iowa uses the payment levels method of compliance, which requires the Department to increase the payment amounts and income limits for State Supplementary Assistance categories effective January 1 of each year as necessary to meet the minimum levels required by the federal government. The minimum levels are indexed by the cost-of-living increase in federal Social Security and Supplemental Security Income (SSI) benefits, which is 3.6 percent for calendar year 2012.

Changes necessary to meet federal pass-along requirements for 2012 are as follows:

- Increasing the income limit and payment standard for a dependent relative from \$344 per month to \$357 per month.
- Increasing the income limits for eligibility for a dependent relative supplement by \$37 per month for an eligible individual (from \$1,018 to \$1,055) and by \$50 per month for an eligible couple (from \$1,355 to \$1,405).
- Increasing the family life home income limit by \$24 per month (from \$836 to \$860).
- Increasing the maximum family life home payment by \$22 per month (from \$743 to \$765).
- Increasing the maximum residential care per diem rate by \$0.78 (from \$28.14 to \$28.92).

State legislation also requires the Department to increase the personal needs allowance for residents of residential care facilities at the same percentage and at the same time as federal Social Security and SSI benefits are increased. Therefore, these amendments increase the residential care facility and family life home personal needs allowances by \$2 per month (from \$93 to \$95).

The Council on Human Services adopted these amendments on December 14, 2011.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation on these amendments are unnecessary because these amendments merely implement the standard methodology for annually determining required eligibility and payment levels for the State Supplementary Assistance program. The Department finds that notice and public participation on these amendments are impracticable because the cost-of-living increase was announced so late in the year that insufficient time remains for a public notice period before the required implementation date. In addition, the Department finds that it would be contrary to the public interest for Iowa to be disqualified from participating in the Medicaid program.

The Department also finds, pursuant to Iowa Code sections 17A.5(2)“b”(1) and (2), that the normal effective date of these amendments should be waived because the amendments confer a benefit by increasing income limits and payments and because emergency rule making is authorized by 2011 Iowa Acts, House File 649, section 11.

These amendments are also published herein under Notice of Intended Action as **ARC 9964B** to allow for public comment.

These amendments do not provide for waivers in specified situations because the amendments, by increasing payment levels, benefit the people affected. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2011 Iowa Acts, House File 649, sections 11 and 28.

These amendments became effective January 1, 2012.

The following amendments are adopted.

ITEM 1. Amend subrule 51.4(1) as follows:

51.4(1) *Income.* Income of a dependent relative shall be less than ~~\$344~~ \$357. When the dependent's income is from earnings, an exemption of \$65 shall be allowed to cover work expense.

ITEM 2. Amend rule 441—51.7(249) as follows:

441—51.7(249) *Income from providing room and board.* In determining profit from furnishing room and board or providing family life home care, ~~\$344~~ \$357 per month shall be deducted to cover the cost, and the remaining amount treated as earned income.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

ITEM 3. Amend subrules 52.1(1) and 52.1(2) as follows:

52.1(1) *Protective living arrangement.* The following assistance standards have been established for state supplementary assistance for persons living in a family life home certified under rules in 441—Chapter 111.

\$743 <u>\$765</u>	Care allowance
\$93 <u>\$95</u>	Personal allowance
\$836 <u>\$860</u>	Total

52.1(2) *Dependent relative.* The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient's home.

a. Aged or disabled client and a dependent relative	\$1018 <u>\$1,055</u>
b. Aged or disabled client, eligible spouse, and a dependent relative	\$1355 <u>\$1,405</u>
c. Blind client and a dependent relative	\$1040 <u>\$1,077</u>
d. Blind client, aged or disabled spouse, and a dependent relative	\$1377 <u>\$1,427</u>
e. Blind client, blind spouse, and a dependent relative	\$1399 <u>\$1,449</u>

ITEM 4. Amend subrule 52.1(3), introductory paragraph, as follows:

52.1(3) *Residential care.* Payment to a recipient in a residential care facility shall be made on a flat per diem rate of \$17.86 or on a cost-related reimbursement system with a maximum per diem rate of ~~\$28.14~~ \$28.92. The department shall establish a cost-related per diem rate for each facility choosing this method of payment according to rule 441—54.3(249).

ITEM 5. Amend subparagraph **52.1(3)“a”(2)** as follows:

(2) An allowance of ~~\$93~~ \$95 to meet personal expenses and Medicaid copayment expenses.

[Filed Emergency 12/20/11, effective 1/1/12]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/11/12.